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C O N F I D E N T I A L SECTION 01 OF 02 BANGKOK 002073

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E.O. 12958: DECL: 04/10/2017
TAGS: PGOV PHUM KDEM TH
SUBJECT: COMMITTEE SHAPING DRAFT CONSTITUTION

REF: A. BANGKOK 1630 (AMBASSADOR'S DISCUSSION WITH
BANHARN)
1B. BANGKOK 1598 (PRASONG ON CONSTITUTION)
1C. BANGKOK 1538 (AMBASSADOR'S DISCUSSION WITH
CHATURON)
1D. BANGKOK 1465 (AMBASSADOR'S DISCUSSION WITH CHUAN)

Classified By: Ambassador Ralph L. Boyce, reason: 1.4 (b) and (d).

SUMMARY

11. (C) The Constitution Drafting Committee (CDC) met on April 10 to adopt a position on some controversial provisions proposed for a draft version of the constitution. The most controversial proposal would allow persons other than elected legislators to become Prime Minister; this idea faces widespread opposition, from both civil society and members of the drafting committee. The CDC is also debating how to define the role and composition of the Senate, and whether to create an ad hoc committee with special rights and duties in a time of crisis. The CDC's draft will not establish Buddhism as Thailand's national religion, and this omission will likely energize religious groups to lobby the Constitution Drafting Assembly. Whatever decisions the drafting committee makes will be subject to further public debate and may be modified or even reversed before the constitution's completion in July. End Summary.

TIMETABLE AND PROCEDURES

12. (SBU) The Constitution Drafting Committee (CDC) has begun a meeting designed to settle the CDC's position on certain contentious provisions of the draft constitution. After resolving these issues, the CDC will spend approximately one week finalizing its draft. The CDC intends to release the draft to the media on or about April 18 and formally present it to the Constitution Drafting Assembly (CDA) on or about April 19. After approximately one month for public comment and debate, the CDA will then spend weeks finalizing the draft, aiming to complete its work in early July. The CDC's April 10 decisions will influence subsequent discourse but are open to reversal or modification.

13. (SBU) The CDC has determined that its April 10 meeting will be closed to the public, and the voting that takes place will be by secret ballot. These modalities have disappointed members of the media and public who had hoped for greater transparency in the CDC's processes.

14. (SBU) Up to this point, the CDC has issued press releases

informing the public about its debates and providing some of its draft language. (These releases can be found online, in English, at: http://cda.parliament.go.th/index_en.php) However, most media articles on constitutional issues have highlighted ad hoc statements by various CDA figures or other government officials with unclear authority to speak on the issues under discussion. Political parties and NGOs have responded to these trial balloons and expressions of opinion.

ELIGIBILITY FOR PM AT ISSUE

¶15. (C) The most contentious provision at issue is whether the constitution will enable the House of Representatives to elect as Prime Minister someone who is not an elected member of the House. Political parties, NGOs, academics, and members of the media have expressed strong opposition to any loophole that might allow an unelected figure to become Prime Minister; they fear that leaving an opening for such a selection would make it likely that figures associated with the Council for National Security (CNS) would ensure their selection, extending the military's hold on political power. (General Suchinda Kraprayoon, who was forced from office after a bloody crackdown on demonstrations in 1992, used this strategy.) Our contacts have consistently told us that including a provision for a "non-elected PM" would spark strong opposition to the constitution, likely including street protests. Nevertheless, CDC Chairman Prasong Soonsiri told the Ambassador in March that he hoped to preserve a variation of this provision for use in times of crisis (ref B).

THE SENATE

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¶16. (C) The new constitution will redefine the role and composition of the Senate. (The system established by the 1997 Constitution aimed to produce an elected but non-partisan Senate. It failed.) While political parties have expressed a preference for retaining an elected Senate, they appear not to view this issue as rising to the same level of importance as that of the "non-elected PM" -- perhaps because Thailand only began holding direct elections for the Senate after 1997; previously, Senators were either indirectly elected by the House or appointed. NGOs, academics, and media pundits appear even less motivated than the political parties to retain an elected Senate. The next Senate's role in lawmaking and appointing members of independent agencies (e.g., the Election Commission, the National Counter Corruption Commission) remains unclear.

OTHER POLITICAL ISSUES

¶17. (C) The CDC will take an initial stance on whether to retain a party list mechanism for the election of members of the House. Some critics charge that the party list system allows parties a mechanism for providing large donors and cronies with seats in parliament. Others claim that the party lists are useful in allowing intellectuals or others who lack the knack for campaigning to find a route into the parliament. Politicians appear ambivalent on the retention of party lists; like the composition of the Senate, proposals for and against retaining party lists do not evoke strong feelings.

¶18. (C) A more controversial provision that may be included in the CDC's first draft would allow for a special committee to convene and make important decisions during a time of crisis. The composition of this committee, and its modalities, remain unclear. Advocates of a new mechanism of this sort appear to be trying to find a way -- short of intervention by the King -- to resolve the type of situation that arose in late 2005 and early 2006, when urban Thais held large

protests against Prime Minister Thaksin Shinawatra, who retained political support in many rural areas. Including this provision would likely engender substantial debate in civil society.

BUDDHISM

¶9. (C) Up to this point, no CDC member has advocated making Buddhism Thailand's national religion. However, Buddhist groups have traditionally lobbied ardently (but unsuccessfully) for such a provision whenever the authorities draft a new constitution. Our contacts tell us we may again see a heated debate on the issue, but it has not yet arisen within the CDC, and the first draft will not contain a provision enhancing the primacy of Buddhism in Thailand.

COMMENT

¶10. (C) The above list of issues is not comprehensive, but it includes the most important provisions that the CDC has begun discussing. Although the CDC's views will provide a useful indication of where the drafting process is heading, the CDA is empowered to make whatever changes it sees fit to the CDC's first draft. So, while the April 10 debate may generate sensationalist headlines, it should be seen as a meaningful but far from final step toward promulgating a new constitution that lays the groundwork for elections.

BOYCE